

EXECUTIVE OFFICER SUMMARY REPORT  
December 14, 2005

ITEM: 6

SUBJECT: Waste Discharge Requirements and Section 401 Water Quality Certification for Bentley-Monarch J.V. / Benteq, Cantarini Ranch and Holly Springs Projects Carlsbad, San Diego County. (Tentative Order No. R9-2005-0230) (*Jeremy Haas*)

PURPOSE: To prescribe waste discharge requirements and issue a Clean Water Act section 401 water quality certification for discharges of fill at the proposed Cantarini Ranch and Holly Springs projects.

PUBLIC NOTICE: In accordance with California Water Code section 13167.5 and Code of Regulation section 3858(a), a public notice of this item was distributed to all known interested persons and posted on the Regional Board web site on November 4, 2005.

DISCUSSION: Bentley-Monarch J.V. / Benteq (developer) has submitted an application for a Clean Water Act (CWA) section 401 certification for fill activities in 2.22 acres of waters of the United States. The developer also submitted a report of waste discharge for additional fill activities of 0.17 acres (745 linear feet) occurring outside the area defined as waters of the United States, but still within waters of the State. These fill activities are located on the developer's adjacent Cantarini Ranch and Holly Springs properties in the City of Carlsbad and within the Agua Hedionda watershed. The enclosed Supporting Document No. 3 provides a detailed description of the project and the rationale for the requirements in the Tentative Order.

The discharge of fill material to waters of the State will cause and threaten to cause conditions of pollution and nuisance and loss of beneficial uses. Preventative and compensatory mitigation measures have been proposed, including a habitat mitigation plan, a compliance plan for statewide construction stormwater NPDES requirements, and a post-construction storm water management plan. Tentative Order No. R9-2005-0230 includes requirements to implement these measures and to report on construction and habitat mitigation progress.

Although there are two development projects (Cantarini Ranch and Holly Springs), a single Order for waste discharge requirements and

water quality certification is being proposed because both projects are under the same ownership, located adjacent to one another and were evaluated as a single project under the California Environmental Quality Act (CEQA). A final Environmental Impact Report (EIR) for the project was approved by the City of Carlsbad on December 7, 2004 (SCH 2002101081). In January 2005 the two developments were subjected to a CEQA lawsuit, which was subsequently settled and dismissed in June 2005. Additional mitigation measures will be implemented as a result of the settlement.

Two written comments have been received on the Tentative Order. Ms. Diane Nygaard (on behalf of Preserve Calavera) and Ms. Mary Clarke (on behalf of the San Diego Chapter of the Sierra Club) both suggested that the Board postpone adoption of the Tentative Order until a comprehensive analysis of cumulative effects on erosion and habitat from all proposed developments in the watershed has been conducted. The EIR concluded that cumulative development projects in the area have the potential to increase the amount of erosion due to alteration of drainage patterns and increased amounts of impervious surfaces. The EIR states, however, that all proposed projects would apply relevant BMPs to ensure that there are no significant impacts with respect to hydrology and water quality. The Tentative Order requires BMPs and monitoring to ensure such threats are mitigated.

With respect to the proposed project, one commenter wanted habitat mitigation conducted on-site and questioned whether stream buffers were incorporated to help mitigate the threat of increased peak flows. These issues are discussed in Supporting Document No. 3 and addressed by the Tentative Order. All compensatory habitat mitigation measures for loss of State waters are proposed on site, and management measures to mitigate the threats from increased imperviousness ensure the project will not increase peak flows.

**KEY ISSUE:** The Tentative Order requires implementation of plans, programs, and measures that are referred to in the Environmental Impact Report, but which were not finalized when the EIR was adopted.

**LEGAL CONCERNS:** NONE

**SUPPORTING DOCUMENTS:**

1. Map of the affected area
2. Tentative Order No. R9-2005-0230
3. Technical Report, dated December 14, 2004

**COMPLIANCE:** There are no known compliance issues at the proposed project site.

**RECOMMENDATION:** Adoption of the Tentative Order is recommended.